

Serial No. 09/801,682

Docket No. P-0185

Amdt. dated January 5, 2005

Reply to Office Action of October 5, 2004

### **REMARKS/ARGUMENTS**

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1 and 3-24 are pending in the present application. Claim 2 has been canceled and claims 1, 11, 12 and 20 have been amended by the present amendment.

In the outstanding Office Action, claim 11 was rejected under 35 U.S.C. § 112, second paragraph; claims 1, 3-5 and 10 were rejected under 35 U.S.C. § 102(e) as anticipated by Weerackody et al.; claims 2, 11, 12, 16-21 and 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over Weerackody et al. in view of Sourani; claims 6, 8 and 9 were rejected under 35 U.S.C. § 103(a) as unpatentable over Weerackody et al. in view of Hardy, III; and claims 7, 13-15, 22 and 23 were rejected under 35 U.S.C. § 103(a) as unpatentable over Weerackody et al. in view of Sourani and Hardy, III.

Claim 11 has been amended in light of the comments noted in the Office Action. Accordingly, it is respectfully requested the rejection of this claim under 35 U.S.C. § 112, second paragraph, be withdrawn.

Further, the rejection of claims 1, 3-5 and 10 is moot as claim 1 has been amended to include the subject matter recited in dependent claim 2.

Claims 2, 11, 12, 16-21 and 24 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Weerackody et al. in view of Sourani. This rejection is respectfully traversed.

As discussed above, independent claim 1 has been amended to include the subject matter recited in dependent claim 2. Claim 1 has also been amended to recite that the data re-transmission function re-transmits the transmitted data stored in the buffer directly from the physical layer to a corresponding physical layer of a receiving apparatus without receiving a copy of the transmitted data from another layer above the physical layer. Independent claims 12 and 20 include similar features in a varying scope.

In a non-limiting example, Figure 2 illustrates re-transmission of the data being performed between the physical layer 30 of the base station and the physical layer 35 of the terminal in which the layer 10 and layer 20 above the physical layer 30 of the base station does not resend a copy of the transmitted data to the physical layer 30. That is, as shown in Figure 2, the re-transmission of the data is performed directly between the physical layers 30 and 35, rather than using the transport layers 10 and 15 or data link layers 20 and 25 as in the related art case shown in Figure 1 (see paragraph [35]) at page 9, for example).

The Office Action applies Weerackody et al. as disclosing a general re-transmission scheme and indicates Sourani teaches a buffer, controller, transmitting terminal and radio frequency unit operating in a physical layer.

However, it is respectfully noted Sourani is merely directed to transmitting an urgent package before a non-urgent package. That is, in Sourani, the interrupt handler 36 (see Figure 1, for example) is used to interrupt the transmission of data from an input buffer 24

when there is data in the urgent input buffer 25 (see also, column 1, lines 60-67). As shown in Figure 1, the low layer unit 32 is above the physical/modem layer 34 and any data that is transmitted in Sourani is received from layers above the physical layer as in the general related art. The same is true for Weerackody et al. That is, Weerackody et al. is similar to the related art discussed in the present invention in which data is retransmitted after it has been re-received from layers 2 or 4 above the physical layer (see Figure 1, for example).

Accordingly, it is respectfully submitted independent claims 1, 12 and 20 and each of the claims depending therefrom patentably define over the combination of Weerackody et al. and Sourani.

Further, it is respectfully submitted the other rejections noted in the Office Action have also been overcome as the claims rejected therein are dependent claims and Hardy, III also does not teach or suggest the newly amended features nor the combinations of the elements recited in the independent claims.

Further, the specification has been amended to correct minor informalities. It is believed no new matter has been added.

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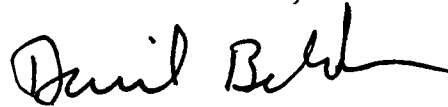
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### **CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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